IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 556 OF 1998

The Commissioner of Income-tax. ... Applicant.
V/s.
M/s.Essenjay Marketing Pvt.Ltd. ... Respondent.

A.S.Rao for the Applicant.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 29th March, 2005.

P.C. :

. Heard learned counsel for the applicant.

The tribunal has referred following question for the

opinion of this Court:

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the disallowance out of salary and perquisites to the employee directors should be made under section 40(c) and not u/s. 40A(5) of the I.T.Act, 1961?"

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. v. Hico Products P.Ltd.**, (1993) 201 ITR 567 (Bom) in favour of assessee and against the the revenue. In this view of the matter, the question referred is answered in affirmative for the reasons

stated in the above referred judgment.

. Reference stands disposed of accordingly

with no order as to costs.

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